

INTERNATIONAL CITY MANAGERS' ASSOCIATION

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PERSONAL COUNSELING AND EMPLOYEE GRIEVANCE PROCEDURES

What are employee grievances? What are the uses and limitations of personal counseling and grievance procedures? What are the alternatives in establishing grievance policies and procedures?

A grievance is an employee's expressed dissatisfaction with some phase of his job or his relations with others on the job which is outside his control. Management and employee attitudes which seek to understand each other's problems will go a long way toward preventing grievances. Procedures for personal counseling and disposing of grievances will help in bringing this mutual understanding and in creating a more productive work environment.

This report is concerned with the uses and limitations of grievance adjustment procedures and presents examples of the systems used in four cities. Attention is given also to counseling as an aid in solving employee's personal problems.

Typical grievances are concerned with work conditions (light, heat, sanitary facilities, safety), type and location of work assignment, work load, and attitude of supervisors. On the other hand, problems relating to salaries, fringe benefits, overtime and overtime pay, position classification and employee status (discharge, suspension, reduction, retirement) are usually not considered as grievances.

What causes grievances? They can result from a lack of understanding on the part of employees of management policies, procedures, and practices; they arise when management fails to realize or discover the conditions that make employees discontented; or they can result from an employee's real or imagined feelings of having been treated unfairly.

In the long run prevention is a big tool in curbing grievances. By eliminating conditions that cause them, much can be done to keep grievances down to a minimum. This involves free and easy communication between supervisor and employee; the use of responsible employee organizations to help spot causes of grievances; making use of the first-line supervisor as the principal channel for receiving information from employees as well as keeping employees informed, answering their questions, and pointing out the reasons for management's decisions; and, probably most important of all, creating and administering a sound personnel program, which includes equitable classification and pay plans.

But no matter how elert management is, employee grievances are bound to crop up from time to time. Consequently some procedure must be created to provide an employee with the means of expressing his grievance to management with the assurance that it will be considered rapidly, thoroughly, and without reprisal. In large jurisdictions the procedure is usually a formalized administrative regulation or personnel rule, while in smaller municipalities a more simple and informal procedure often serves the purpose just as well.

Elements of a Good Procedure. While it is not possible to present the ideal grievance procedure, since each procedure must be tailored to fit the situation it will serve, it is possible to mention some principles that are essential to the development of any workable system.

A satisfactory grievance procedure should neither invite nor discourage the statement of grievances; it should provide for the resolving of grievances as quickly as possible and as far down the line as possible; and it should resolve grievances fairly for both employee and supervisor and be considered fair by both these groups. A grievance procedure works better when it is as simple and informal as possible because it aids in settling grievances promptly and near the point of origin.

Some generally recognized principles for the development and maintenance of grievance procedures, based on experience in both private and public employment, are the following:

1. Employees should have a part in formulating the procedures. This naturally leads to better acceptance.
2. Employees should be fully informed about the grievance plan when it is adopted, especially about where and to whom grievances should be presented.
3. The successive steps in the grievance procedure should be as few and as direct as possible to avoid the cumbersome process of quasi-legal hearings.
4. Initially the grievance should be presented orally and acted upon orally. To put the grievance in writing at this point will only aggravate temporary ill feeling and hamper later impartial consideration of the grievance.
5. Grievances should be acted on promptly with time limits on each step in the procedure. The longer grievances are harbored, the more bitter they can become.
6. The grievance should be settled as near as possible to its point of origin.
7. When formal grievance machinery must be used, the grievance should be put in writing. The facts in the case and the reasons for the decision should be available to all parties.
8. No employee should be penalized for using grievance machinery. Fear of reprisal will make the plan ineffective.
9. Employees should be free to present grievances through representatives of their own choosing. Most employees need the aid and assurance provided by a third party in presenting grievances.
10. First-line supervisors, as part of broader supervisory training, should learn how to spot and correct incipient grievances.
11. Final decisions on grievances should be made only by those who have administrative responsibility. It is poor administrative practice to abdicate the final decision to an arbitration board or committee. Stated another way, the aggrieved employee should have all possible help, including third-party representation; but the final decision must be made within the organization by the official responsible for the work to be done.

Limitations of Procedures. It is easy to see how supervisors as well as employees can become discontented with some methods of handling grievance procedures.

Some procedures cause supervisors to claim that they are over-democratic--loaded in favor of the employee--so that it is hard for the supervisor to give his side of the story. Employees are critical of other grievance procedures because they feel that they cannot get a square deal under the setup. Other criticisms are that procedures are too complicated and take too much time; that they are stacked in favor of the employer; that the final decision often fails to explain the issues; and that the reasons which underlie the decision are often missing from the final statement.

Practices in Government and Industry. According to Rollin B. Posey in the March, 1953, issue of Public Management, the three basic types of grievance procedures are the chain of command, the personnel department, and the committee type.

The type most commonly used in the public service is the chain of command. In this procedure the regular lines of authority are used. The employee takes up his grievance first with his supervisor, and in case of an unsatisfactory decision, with higher officials in order of rank, even finally with the head of the organization. Many agencies supplement this method with the use of an advisory board, which listens to the employee's case somewhere along the grievance process and makes a recommendation to one of the high level supervisors or administrators.

The personnel department type is also common in public jurisdictions, occurring for the most part in places having merit systems established by law. The first step is the same as the one used in the chain of command type. But on the second level the appeal by an employee from his immediate supervisor's decision goes to the personnel department instead of the next level of command.

Here the employee discusses his grievance with the personnel counselor. Often the counselor will conclude that the employee has been treated fairly and will explain to the employee the reasons why the grievance should be dropped. If on the other hand he agrees with the employee, in whole or in part, he can talk with the supervisor who made the decision or the supervisor's boss to try and get the decision reversed or modified. However, the personnel department has no authority to make decisions and the employees know this.

The third type is the formalized committee procedure which is common in private industry, especially in organized employment with collective bargaining. In public businesses the committee type is found only in those governmental units that are rather thoroughly unionized or have particular unionized departments. In the committee type an employee who wants to protest an administrative decision calls in a grievance spokesman for his bureau, division, or section and either speaks to him first or protests to the supervisor with the spokesman (who is usually called a steward or grievance committeeman) listening. The steward may agree with the employee or he may consider the grievance unjustified and try to convince the employee the complaint should be withdrawn. If the steward approves the complaint he joins the employee in challenging the supervisor's decision.

If the supervisor refuses to change his decision, the steward takes the complaint to a grievance committee which is made up of all the stewards or grievance committeemen in the organization. The committee discusses the grievance with the appropriate higher administrator. In many procedures unadjusted grievances can be submitted to an arbitration committee or a single referee, and both sides agree to abide by the final decision.

Grievance Procedures in Four Cities

The grievance procedures given below are examples of typical processes used by cities to bring about grievance adjustments. The cities range in population from

Milwaukee, which is over 500,000 population, to Salisbury, South Carolina, a city of 20,000.

Milwaukee, Wisconsin (637,392). Milwaukee's grievance procedure manual lists what is and what is not to be handled by the procedure, the general provisions (time limits, employee representatives, grievance forms, etc.), and the five possible steps involved in the procedure itself. The manual states that any grievance is considered settled at the completion of any step, if all parties are satisfied, and that the great majority of grievances should be settled at the first or second step.

In step 1 the employee and/or his representative explains the situation orally to the employee's immediate supervisor. The supervisor, either alone or in collaboration with his superiors, reaches a decision within two working days and orally informs the employee as to the results. If the grievance is not settled at the first step, the employee begins step 2 by writing up the grievance and presenting it to his immediate supervisor. The supervisor writes up his decision and gives it to the employee within one working day.

Step 3 involves the presentation of the grievance to the bureau or division head, and a decision is made within two working days, while step 4 is made on the department head level. Both the bureau or division head and the department head obtain all records of the case and hold hearings if they think them necessary. The last possible action is an appeal to the city service commission (personnel department) which studies the records and holds a public hearing. The decision of the city service commission is final.

Kansas City, Missouri (456,622). Kansas City adopted a formal procedure for processing employee grievances in January, 1956. The administrative regulation containing the procedure for the presentation of grievances is reproduced at the end of this report.

In brief the procedure in Kansas City is as follows: Any employee having a complaint, view, or opinion pertaining to employment conditions or relationships with his immediate supervisor or other employees first will discuss the problem with his immediate supervisor; or he may consult one of the city's eight employee counselors if he prefers. The supervisor is required to render a decision within five days, and at this point the grievance is not reduced to writing.

If the employee is not satisfied with his supervisor's decision he may submit his grievance in writing to his appointing authority. In larger departments where the appointing authority is not the department head, the decision of the appointing authority is endorsed by the department head to signify his concurrence in the decision.

If that decision fails to satisfy the employee, he may then ask that the appointing authority submit the grievance to the city manager who may affirm, deny, or modify the appointing authority's decision. The city manager has the option also of referring the appeal to the personnel director for submission to a grievance committee. A grievance committee consists of three persons: the employee or his representative; the appointing authority or his representative; and a third member named by the other two who serves as chairman. The grievance committee reports its majority recommendation in writing to the appointing authority whose decision then is final.

In addition to the grievance procedure, the administrative regulation of January, 1956, created an unusual counseling program which aids employees with personal problems relating to finances, family difficulties, job difficulties, and the like. Eight well-qualified directors or top departmental officials are designated officially

as employee counselors to whom employees may take their problems. All conversations with the employee counselors are confidential unless the employee authorizes disclosure. These are the same counselors discussed above who may be consulted on grievance problems.

Included in the eight counselors in Kansas City are the personnel director and his administrative assistant, the director of aviation, the senior personnel examiner, the chief social worker, the city assessor, the director of liquor control, and the executive secretary to the Commission on Human Relations. These counselors were chosen very carefully because they appreciate the problems of supervisors and employees alike and are very well liked by employees. Six of the eight counselors have good vocational backgrounds as well -- personnel work, social work, the ministry, and race relations.

Worcester, Massachusetts (203,486). The Worcester procedure was first put into effect in January, 1956. The procedure is as follows: An employee initiates the grievance procedure by explaining the situation orally to his immediate supervisor. The supervisor makes a decision, alone or with the help of his superiors, and passes his decision, orally, to the employee within two working days.

If the employee is not satisfied with the oral decision of his immediate supervisor, he may re-present the grievance to his supervisor, this time in written form. The supervisor also makes his decision in writing and presents it to the employee within two working days.

If the employee is dissatisfied with the supervisor's written decision, his next step is to appeal in writing to the department head. Within two working days the employee receives the department head's decision in writing.

If the grievance is not settled at the third step the employee may appeal to a grievance review board. The review board consists of the personnel director who acts as recorder, and two members appointed by the city manager for two-year overlapping terms. The board holds a hearing on each case with those involved in attendance. The records of the case are presented by the personnel director to the board and within 20 working days the employee, the supervisor, and the department head are notified of the final decision.

The employee has one more appeal if he so desires. If the employee still feels the decision is unfair, he may present his grievance to the city manager who studies the records of the case and may hold a hearing if he feels it necessary. The city manager makes his decision within 20 working days and notifies the employee, the supervisor, the department head, and the personnel director of his decision. In all cases the decision of the city manager is final.

Salisbury, North Carolina (20,102). The grievance procedure for Salisbury is contained in its personnel guide issued in January, 1956. The Salisbury procedure does not call for a formal, step-by-step process, and is typical of the type that can be used in a smaller city.

The personnel guide states that any full-time employee with a grievance may first take it up with his department superintendent or chief. If the difference is not resolved at this level the grievance may be brought before the city manager. Department heads are specifically instructed to listen to employee grievance. If such grievances cannot be resolved at the department level, the department head is instructed to assist the employee in presenting his grievance to the city manager. The manager is also available to confer with any city employee concerning any personal problems, and such conferences are kept strictly confidential. However, employees

understand that there can be no secrecy in discussions with the manager that pertain directly to the employee's job.

Summary of the Four Procedures. All four of the procedures just discussed fall into the chain-of-command type, supplemented in three cities by outside counseling and appeal bodies. They all call for the grievance to be introduced at the supervisor level, and three of them emphasize that a great majority of the grievances should be settled at this point.

Employees often need help in their grievance problems and the Milwaukee and Worcester procedures indicate that the employee may choose someone to represent him at any step in the procedure. Kansas City provides eight counselors who may be consulted on both grievance and personal problems, and in Salisbury the city manager assumes duties similar to the Kansas City counselors.

The final level of appeal varies somewhat among the four procedures. It rests with the city service commission in Milwaukee, the city manager in Worcester and Salisbury, and either the city manager or the appointing authority in Kansas City.

Three of the procedures provide for the use of a grievance committee or review board. In Kansas City a three-man committee reports its recommendations to the appointing authority whose decision is final; in Worcester a three-man review board handles appeals at the next to last level of the grievance procedure; and in Milwaukee the city service commission acts as a board of last appeal.

In the three formalized procedures (all but Salisbury) grievances are initiated in oral form by the employee and an oral decision is made by the supervisor. Grievances are not reduced to writing unless the employee is dissatisfied with the supervisor's decision and hopes for a more favorable response at the second level of the grievance procedure.

Note: Grateful acknowledgement is made to the following city officials who supplied much of the information for this report and reviewed a tentative draft: Ovid B. Blix, city personnel director, Milwaukee, Wis.; C. L. Lineback, city manager, Salisbury, N.C.; Francis J. McGrath, city manager, Worcester, Mass.; and Graham W. Watt, administrative assistant to the city manager, Kansas City, Mo.

Note: The following administrative regulation (No. 2-18, Secs. 1-6) was issued by the city manager of Kansas City, Mo., on January 18, 1956. It provides both for counseling on employees' personal problems and for the methods of handling employee grievances. It has been adapted for this report, with minor editing, with the permission of City Manager L. P. Cookingham.

PERSONAL COUNSELING AND PRESENTATION OF GRIEVANCES

(1) Purpose

It is the purpose of this Administrative Regulation to assure employees that their problems and complaints will be considered fairly, rapidly, and without reprisal. It is expected that the procedures set forth below will encourage employees to discuss with their supervisors matters pertaining to conditions of municipal employment as they affect individual employees. In addition, free discussion between employees and supervisors will lead to better understanding by both of practices, policies and procedures which affect employees. This will serve to identify and eliminate conditions which may cause misunderstandings and grievances.

The primary purpose of any grievance procedure is to determine what is right, rather than who is right. Therefore, grievances must be considered objectively and in an atmosphere of mutual assistance. This cannot be done if a spirit of conflict enters into the consideration of a grievance. Supervisors and employees alike must recognize the true purpose of the grievance procedure to help achieve the basic objective of municipal government by promoting the well-being of the organization.

(2) Policy

It is the policy of the city to provide a means whereby employees may discuss personal problems with department heads and others qualified to give counsel in such cases, and to provide a procedure for the presentation and mutual adjustment of points of disagreement which arise between employees and their supervisors.

(3) Personal Counseling

Employees with personal problems relating to personal finances, family difficulties, job difficulties, etc., may request an appointment with any one of the counselors listed below to discuss their problems and to seek advice. All such discussions shall be completely confidential unless the employee authorizes disclosure.

The following city employees have agreed to serve as employee counselors, and any employee may select any counselor for the discussion of a personal problem: personnel director, administrative assistant to the personnel director, senior personnel examiner, director of aviation, director of liquor control, chief social worker, city assessor, and the executive secretary to the Commission on Human Relations.

(4) Grievance Counseling

A grievance, as distinguished from a personal problem, is a complaint, a view, or an opinion pertaining to employment conditions, to relationships between an employee and his supervisor, or to relationships between an employee and other employees.

Any employee or group of employees who present a grievance may do so with freedom from coercion, reprisal, or discrimination.

Employees should first discuss any problem or complaint which is in the nature of a grievance either with their immediate supervisors or with one of the employee counselors listed above. In many cases, the employee counselor, with the employee's consent, will be able to work out a satisfactory solution or to advise the employee regarding further presentation of his grievance.

Whether or not the employee takes his problem first to an employee counselor, the following procedure will be followed for the presentation of all grievances which are not resolved by an employee counselor.

(5) Procedure for Presentation of Grievances

(5.1) Discuss with Supervisor. The employee shall first take his grievance to his immediate supervisor who shall make a decision and advise the employee within 5 days. It is not necessary or desirable that the grievance be presented in writing to the supervisor.

Supervisors are encouraged to consult with their division heads, department heads, the Personnel Director, or any other individual who may be qualified to offer assistance or information which will aid the supervisor to reach a fair and mutually equitable decision.

(5.2) Appeal to Appointing Authority. If the grievance is not resolved by the immediate supervisor to the satisfaction of the employee, or if a decision is not made by him within 5 days, the nature of the grievance and the desired solution may be submitted in writing by the employee to his appointing authority. A duplicate copy should be sent by the employee to the Personnel Director who shall review the grievance and immediately notify the employee and his appointing authority whether the grievance is subject to the pertinent ordinances, administrative regulations, or rules of the Personnel Department.

Upon receipt of the notice from the Personnel Department that the grievance is not subject to established ordinances or regulations, the appointing authority shall then have the responsibility for settling the grievance and shall inform the employee in writing of his decision within 10 days. A copy of his decision shall be sent to the Personnel Director.

Grievances which are subject to Charter, ordinance, administrative regulation, or Personnel Department rules will be handled as provided therein.

In those larger departments where the appointing authority is not necessarily the department head, the decision of the appointing authority shall be endorsed by the department head to signify his concurrence in the decision.

(5.3) Appeal to the City Manager. If the disposition of the grievance by the appointing authority is not satisfactory to the employee or if a decision is not made within 10 days, the employee may, in writing, request his appointing authority to refer his grievance to the City Manager. All such requests will be transmitted to the City Manager through the department head. Requests for review by the City Manager will be forwarded without delay. This request must be filed by the employee within 5 working days after the receipt of the appointing authority's decision and, in any case, not later than 15 working days after he sent the original request to the appointing authority. A copy of his request for review by the City Manager shall be sent by the employee to the Personnel Director.

The City Manager, upon being notified by the appointing authority of an appeal, may affirm, deny, or modify the decision of the appointing authority, or he may refer

the appeal to the Personnel Director for submission to a grievance committee. In the event the appointing authority has reached no decision within the allotted 10 days, the City Manager may decide the case himself or refer the matter to the Personnel Director for submission to a grievance committee. The City Manager will act upon an appeal within 10 days.

(5.4) Appointment of a Grievance Committee. When the Personnel Director is so notified by the City Manager, he shall assemble a grievance committee within 10 days following receipt of such notice. A grievance committee shall be composed of three members. One member shall be the employee or his representative. One member shall be the appointing authority or his representative, and the third member, who shall serve as chairman, shall be selected and mutually agreed upon by the first two. If an agreement cannot be reached, the Personnel Director shall appoint the third member.

The chairman of the grievance committee shall schedule a hearing to be held within 15 days, at a suitable time and place, and shall so notify his committee members, the employee, the appointing authority, and the Personnel Director.

(5.5) Decisions of Grievance Committee. Within 10 days following the conclusion of the hearing, the grievance committee shall supply the appointing authority with four copies of its report and recommendations, as approved by a majority of the committee.

Upon receipt of the committee's report and recommendations, the appointing authority shall put in writing the course of action he intends to follow and shall forward one copy of his decision and one copy of the committee's report and recommendations to the City Manager; one copy of each to the employee; and one copy of each to the Personnel Director. The fourth copy shall be retained by the appointing authority.

The decision of the appointing authority, following consideration of the report and recommendations of the grievance committee, shall be final and the employee shall have no further right of administrative appeal.

(6) Appeal to Personnel Board

The Charter grants to employees in the classified service the right to have reviewed by the Personnel Board action by an appointing authority leading to the removal, suspension, or reduction in rank of the employee.

It is not intended that this Administrative Regulation conflict with, supersede, or in any way jeopardize this Charter right. Rather, it is expected that this Regulation will apply to prevent problems, complaints or disputes from becoming so serious as to necessitate a personnel action subject to Personnel Board review.

